SWIDLER BERLIN LLP

PHILIP J. MACRES
PHONE 202.424.7770
FAX 202.424.7645
PJMACRES@SWIDLAW.COM

THE WASHINGTON HARBOUR
3000 K STREET, NW, SUITE 300
WASHINGTON, DC 20007-5116
PHONE 202.424.7500
FAX 202.424.7647

WWW.SWIDLAW.COM

April 26, 2005

BY ELECTRONIC AND OVERNIGHT MAIL

Mary L. Cottrell, Secretary
Department of Telecommunications & Energy
Commonwealth of Massachusetts
One South Station, Second Floor
Boston, MA 02110

Re: D.T.E. 04-33

Dear Ms. Cottrell:

On behalf of CTC Communications Corp., DSLnet Communications, LLC; Focal Communications Corporation of Massachusetts; Lightship Telecom, LLC, RCN-BecoCom LLC; and RCN Telecom Services of Massachusetts, Inc. (the "Competitive Carrier Coalition" or "CCC"), enclosed for filing please find the CCC's "Reply to Verizon Massachusetts' Response to March 1, 2005 Procedural Notice and Briefing Questions and March 10, 2005 Briefing Questions to Additional Parties."

Consistent with the Arbitration Ground Rules, seven (7) additional copies of this filing are attached for distribution to the Arbitrators and other Department staff. Also attached is an extra copy of this filing, please date-stamp it and return it in the attached, postage prepaid envelope provided. Please note that CCC will submit this filing in electronic format by E-mail attachment to dte.efiling@state.mass.us.

Should you have any questions concerning this filing, please do not hesitate to contact me.

Sincerely,

Philip J. Macres

Philip J. Macres

Enclosure

cc: Tina Chin, Arbitrator
Jesse Reyes, Arbitrator
DTE 04-33 Service List

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

Petition of Verizon New England, Inc. for Arbitration of an Amendment to Interconnection Agreements with Competitive Local Exchange Carriers and Commercial Mobile Radio Service Providers in Massachusetts Pursuant to Section 252 of the Communications Act of 1934, as Amended, and the *Triennial Review Order*	**D.T.E. 04-33**

REPLY TO VERIZON MASSACHUSETTS' RESPONSE TO MARCH 1, 2005 PROCEDURAL NOTICE AND BRIEFING QUESTIONS AND MARCH 10, 2005 BRIEFING QUESTIONS TO ADDITIONAL PARTIES

INTRODUCTION

CTC Communications Corp.; DSLnet Communications; LLC; Focal Communications Corporation of Massachusetts; Lightship Telecom, LLC; RCN-BecoCom LLC; and RCN Telecom Services of Massachusetts, Inc. (the "Competitive Carrier Coalition" or "CCC") reply to Verizon Massachusetts' ("Verizon") responses to the Department's March 1, 2005 Procedural Notice and Briefing Questions and March 10, 2005 Briefing Questions to Additional Parties.

Verizon responds to a different question than that asked by the Department. Specifically, rather than addressing whether a change of law trigger has occurred, Verizon argues that it is not required to continue to provide certain UNEs it alleges the FCC removed from Verizon's unbundling obligations. Verizon Response to March 1, 2005 Briefing Questions at 4-6; Verizon Response to March 10, 2005 Briefing Questions at 6-10. Regardless of whether Verizon believes it no longer has an obligation to provide certain UNEs, each of the parties' interconnection agreements require that Verizon comply with the change of law provisions in order to amend the agreement. Verizon cannot unilaterally amend the terms of the agreements.

Verizon's argument that the transition plan adopted by the FCC in the *TRRO*[1] supersedes existing interconnection agreements is wrong. After outlining the transition plan for each UNE, the FCC concluded "[c]onsequently, carriers have twelve months from the effective date of this Order to modify their interconnection agreements, including completing any change of law processes." *TRRO*, at ¶¶ 143, 196, 227. Verizon acknowledged this requirement in its Response. Verizon Response to March 1, 2005 Briefing Questions at 6. Clearly, the FCC contemplated that carriers would negotiate amendments to their interconnection agreements to implement the *TRRO* in accordance with the change of law provisions of their respective interconnection agreements. It did not authorize Verizon to implement a transition plan unilaterally.

Further, with respect to new UNE orders, the *TRRO* establishes a process by which Verizon must first accept a CLEC-certified request for high-capacity loops or transport and then challenge the validity of the order; not refuse all such orders in the first instance, as Verizon seeks to do. Paragraph 234 of the *TRRO* provides that CLECs, when submitting a request for a high-capacity UNE loop or transport circuit, should self-certify their eligibility to obtain such a facility as a Section 251 UNE. The order further requires that the ILEC provision such orders immediately, even if it disagrees that the CLEC has the right to order such a UNE. The FCC explained:

> To the extent that an incumbent LEC seeks to challenge any such UNEs, it can subsequently raise that issue through the dispute resolution procedures provided for in its interconnection agreements. In other words, the incumbent LEC must provision the UNE and subsequently bring any dispute regarding access to that UNE before a state commission or other appropriate authority.[2]

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[1] *In the Matter of Unbundled Access to Network Element Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, Order on Remand, WC Docket No. 04-133, CC Docket No. 01-338 (rel. Feb. 4, 2005) ("*TRRO*").

[2] *TRRO*, ¶ 234.

This requirement from the *TRRO* requires the establishment of an orderly and fair process in which Verizon must first process UNE orders that the CLEC certifies as valid, and only then dispute the CLEC's right to order such UNEs. In large part because of Verizon's self-help approach, this fill-order-first-challenge-later requirement must be incorporated into the parties' interconnection agreements in order to preserve CLECs' access to UNEs.

Moreover, as the CCC explained in detail in their Initial Brief and other filings, Verizon ignores the critical fact that regardless of its Section 251 obligations, Verizon remains obligated to provide certain network elements pursuant to other applicable laws, including Section 271 and any applicable present and future FCC Merger Conditions. Verizon simply takes that position that it is no longer required to provide, among other UNES, switching, high capacity loops and transport and further, that it can unilaterally cease providing these UNEs without modifying the parties' interconnection agreements. Because Verizon remains obligated to provide UNEs under applicable law, it is not free to cease providing UNEs and interconnection agreements must be amended to reflect Verizon's current obligations.

Issue 1: Notwithstanding the carrier's substantive arguments in this proceeding regarding the proposed rates, terms, or conditions for any specific service, for each carrier's individual interconnection agreement, please identify each and every term that is relevant to whether or not the interconnection agreement's change of law or dispute resolution provisions permit the parties to implement changes of "applicable law" without first executing an amendment to the interconnection agreement.

A. CHANGE OF LAW PROVISIONS

Notwithstanding the Department's request that parties "identify" the relevant terms of their agreements, Verizon insists on presenting its interpretation of those provisions. As shown below, however, its interpretations are uniformly wrong.

DSLnet Interconnection Agreement (Verizon's Group 1)

Verizon argues that the provisions of this agreement make clear that Verizon may cease providing UNEs when no longer required to do so by federal law. Verizon Response to March 1, 2005 Briefing Questions at 10. Verizon mischaracterizes the terms of the agreement and thus its obligations under the agreement.

The interconnection provisions Verizon cites in its response (Sections 4.7 and UNE Attachment Section 1.5)[3] do not have the meaning Verizon attributes to them, *i.e.*, that it is no

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[3] Section 4.7 provides that:

> Notwithstanding anything in this Agreement to the contrary, if, as a result of any legislative, judicial, regulatory or other governmental decision, order, determination or action, or any change in Applicable Law, Verizon is not required by Applicable Law to provide any Service, payment or benefit, otherwise required to be provided to DSLnet hereunder, then Verizon may discontinue the provision of any such Service, payment or benefit, and DSLnet shall reimburse Verizon for any payment previously made by Verizon to DSLnet that was not required by Applicable Law. Verizon will provide thirty (30) days prior written notice to DSLnet of any such discontinuance of a Service, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff) or Applicable Law for termination of such Service in which event such specified period and/or conditions shall apply.

UNE Attachment Section 1.5 provides that:

> Without limiting Verizon's rights pursuant to Applicable Law or any other section of this Agreement to terminate its provision of a UNE or a Combination, if Verizon provides a UNE or Combination to DSLnet, and the Commission, the FCC, a court or other gov-

longer obligated to provide UNEs that were delisted in the *TRO* or *TRRO*. Both of these provisions specifically refer to changes in "Applicable Law" that could alter Verizon's obligations to provide certain services; however, Applicable Law is much broader than just Sections 251 and 252. The term "Applicable Law" is defined as "***[a]ll*** effective laws, government regulations and government orders, applicable to each Party's performance under this Agreement." (emphasis added) This definition highlights the critical flaw in Verizon's reasoning. Specifically, notwithstanding the *TRO* and the *TRRO*, Verizon must provision UNEs pursuant to other sources of federal, or even state law, such as Section 271 or a merger condition imposed by the FCC. For example, the *TRO*, determined that "the [unbundling] requirements of section 271(c)(2)(B) establish an independent obligation for the BOC to provide access to loops, switching, transport, and signaling regardless of any unbundling analysis under section 251."[4] In addition, the D.C. Circuit determined that the *TRO* did not supersede the ILECs' unbundling obligations under their FCC merger conditions, and that these conditions applied in addition to, and regardless of the status of, an ILEC's obligations under Section 251.[5] Thus, neither the *TRO* nor the *TRRO* eliminated all effective laws, government regulations and government orders, applicable to each Party's performance under the Agreement. Rather, what has changed is the terms upon which Verizon is obligated to provide UNEs. It is for the reason that the parties must negotiate an

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ernmental body of appropriate jurisdiction determines or has determined that Verizon is not required by Applicable Law to provide such UNE or Combination, Verizon may terminate its provision of such UNE or Combination to DSLnet. If Verizon terminates its provision of a UNE or a Combination to DSLnet pursuant to this Section 1.5 and DSLnet elects to purchase other services offered by Verizon in place of such UNE or Combination, then: (a) Verizon shall reasonably cooperate with DSLnet to coordinate the termination of such UNE or Combination and the installation of such services to minimize the interruption of service to Customers of DSLnet; and, (b) DSLnet shall pay all applicable charges for such services, including, but not limited to, all applicable installation charges.

[4] *TRO*, at ¶ 653.

[5] *SBC v. FCC*, 373 F.3d 140, 150 (D.C. Cir. 2004).

amendment to their interconnection agreement to reflect the changed terms of Verizon's unbundling obligations.

Because of this, Section 4.6 of the parties' interconnection agreement, not the sections cited by Verizon, applies in this proceeding. Section 4.6 provides:

> If any legislative, regulatory, judicial or other governmental decision, order, determination or action, or any change in Applicable Law, materially affects any material provision of this Agreement, the rights or obligations of a Party hereunder, or the ability of a Party to perform any material provision of this Agreement, the Parties shall promptly renegotiate in good faith and amend in writing this Agreement in order to make such mutually acceptable revisions to this Agreement as may be required in order to conform the Agreement to Applicable Law. If within thirty (30) days of the effective date of such decision, determination, action or change, the Parties are unable to agree in writing upon mutually acceptable revisions to this Agreement, either Party may pursue any remedies available to it under this Agreement, at law, in equity, or otherwise, including, but not limited to, instituting an appropriate proceeding before the Commission, the FCC, or a court of competent jurisdiction, without first pursuing dispute resolution in accordance with Section 14 of this Agreement.

In other words, because the *TRO* and the *TRRO* affect the rights and obligations of the parties under the agreement, the parties must negotiate an amendment to the agreement to conform with those changes. The proposal submitted by the CCC does so, while Verizon's unilateral threat to terminate its provision of UNEs does not.

Lightship Interconnection Agreement (Verizon's Group 2)

Verizon's arguments with respect to this interconnection agreement can also be dismissed for the same reasons. Specifically, Verizon, citing Sections 11 and 27.4 of the interconnection agreement,[6] claims that the agreement gives it the unilateral right to cease providing any UNEs

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[6] Section 11 provides that:

> To the extent required by Applicable Law, and subject to the provisions of this Section 11.0 (including, without limitation, Section 11.7 hereof), BA shall offer to Level 3 nondiscriminatory access to Network Elements on an unbundled basis at any technically feasible point pursuant to, and in accordance with the terms and provisions of, this Agreement; provided, however, that BA shall not have any obligation to continue to pro-

that cease to be subject to an unbundling requirement under Applicable Law. Verizon Response to March 1, 2005 Briefing Questions at 12-14. Verizon ignores the meaning of the term "Applicable Law" and thus mischaracterizes the effect of the provisions it cites.

Section 1.6 of the agreement defines "Applicable Law" as "***[a]ll*** laws, regulations and orders applicable to each Party's performance of its obligations [under the Agreement]." (emphasis added). As noted above, this definition encompasses much more than the unbundling requirements of Sections 251 and 252, which are the basis for Verizon's position that it is no longer required to provide certain UNEs. Thus, regardless of whether the *TRO* or the *TRRO* changed Verizon's Section 251 or Section 252 unbundling obligations, Verizon remains subject to an unbundling requirement pursuant to other sources of federal, or even state law, such as

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> vide such access with respect to any Network Element listed in Section 11.1 (or otherwise) that ceases to be subject to an unbundling obligation under Applicable Law; provided further that, if BA intends to cease provisioning a Network Element that it is no longer required by Applicable Law to provision, the Parties agree to work cooperatively to develop an orderly and efficient transition process for discontinuation of provisioning of such Network Element. Unless otherwise agreed to by the Parties (or required by Applicable Law), the transition period shall be at most three (3) months from the date that the FCC (or other applicable governmental entity of competent jurisdiction) issues (or issued) public notice that BA is not required to provision a particular Network Element. Level 3 may request renegotiation pursuant to Section 27.3 hereof to obtain from BA access to any Network Element not listed in Section 11.1 that is subject to a legally effective FCC or Department order, and which BA makes available to requesting carriers under the Act; in such cases Level 3 shall not be required to use the Bona Fide Request Process to obtain nondiscriminatory access to such additional Network Element on an unbundled basis.

Section 27.4 provides that:

> Except as explicitly provided in Sections 4.2.4, 5.7 and 22 of this Agreement, notwithstanding anything else herein to the contrary, if, as a result of any decision, order or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, it is determined that BA is not required to furnish any service, facility or arrangement, or to provide any benefit required to be furnished or provided to Level 3 hereunder, then BA may discontinue the provision of any such service, facility, arrangement or benefit to the extent permitted by any such decision, order or determination by providing ninety (90) days prior written notice to Level 3, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff or Applicable Law) for termination of such service, in which event such specified period and/or conditions shall apply.

Section 271 or a merger condition imposed by the FCC. As discussed above and contrary to Verizon's claims, neither the *TRO* nor the *TRRO* eliminated all of Verizon's unbundling obligations under Applicable Law. Consequently, Verizon cannot cease providing UNEs completely, but must continue to provide them in accordance with the remaining unbundling obligations.

Because Verizon's unbundling obligations may have changed, but have not been eliminated, by Applicable Law, Section 27.3 of the parties' interconnection agreement, not the provisions cited by Verizon, is appropriate to address the parties' obligations in this proceeding. Specifically, Section 27.3 states:

> Except as explicitly provided in Sections 4.2.4, 5.7 and 22 of this Agreement,[7] in the event of a change in Applicable Law that materially affects any material term of this Agreement, the rights or obligations of either Party hereunder, or the ability of either Party to perform any material provision hereof, the Parties shall renegotiate in good faith such affected provisions with a view toward agreeing to acceptable new terms as may be required or permitted as a result of such legislative, regulatory, judicial or other legal action.

In other words, any changes in Applicable Law resulting from the *TRO* and *TRRO* require the parties to negotiate in good faith an appropriate amendment to their interconnection agreement to implement those changes. Verizon simply cannot, as it alleges, discontinue providing certain UNEs it believes it no longer has an obligation to provide.

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[7] These provisions are not relevant here. Section 4.2.4 addresses geographically relevant interconnection points; Section 5.7 addresses intercarrier compensation; and Section 22 addresses term and termination.

CTC Interconnection Agreement (Verizon's Group 3), RCN Telecom Services and RCN-BecoCom Interconnection Agreement[8]

Verizon claims that Section 2.2[9] of the CTC agreement[10] permits it to cease providing a UNE that is no longer required by federal law. Verizon is wrong. Section 2.2 merely enables Verizon to implement the provisions of the *TRO* or *TRRO*, to the extent not otherwise prohibited by either order, by providing notice to CTC; it does not permit Verizon to otherwise ignore applicable provisions of the parties' interconnection agreement. Significantly, contrary to Verizon's claims that the *TRO* and *TRRO* are self-effectuating, those decisions limit Verizon's ability to implement unilaterally any changes affected by those decisions.

For example, the *TRO* explicitly stated that carriers must follow their ***existing*** change of law provisions to implement the *TRO*, and "decline[d] the request of several BOCs that [the FCC] override the section 252 process and unilaterally change all interconnection agreements."[11] Thus, the only way in which Verizon can "avail itself" of the *TRO* is to negotiate an appropriate amendment to its interconnection agreement to implement the *TRO*.

The *TRRO* similarly recognized the validity of the parties' change of law provisions, even where the *TRRO* established a transition process for delisted UNEs. Specifically, the *TRRO*

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[8] Because the Department did not identify RCN Telecom Services and RCN-BecoCom in its March 1, 2005 Briefing Questions, Verizon did not include those companies in its Group 3 interconnection agreements. Nonetheless, because the CTC, RCN Telecom Services and RCN-BecoCom interconnection agreements include similar provisions, the same analysis applies to all of the agreements.

[9] Section 2.2 provides that:

> The Parties agree that if any Judicial or regulatory authority of competent jurisdiction determines (or has determined) that BA is not required to furnish any service or item or provide any benefit to Telecommunications Carriers otherwise required to be furnished or provided to CTC hereunder, then BA may, at its sole option, avail itself of any such determination by providing written notice thereof to CTC.

[10] This provision does not appear in the RCN Telecom Services and RCN-BecoCom interconnection agreements.

[11] *TRO*, at ¶¶ 700-701.

noted that as a result of the transition plan outlined in the order, "carriers have twelve months from the effective date of this Order to modify their interconnection agreements, including completing any change of law processes."[12] Again, to "avail itself" of this requirement, Verizon must negotiate an appropriate amendment to the interconnection agreement and cannot just cease providing UNEs.

With respect to new UNE orders, the *TRRO* is more explicit. Verizon must first process any new orders for high capacity loops and transport that a CLEC certifies as valid, and only after the order is filled can Verizon challenge the validity of the order.[13] Consequently, the only requirement Verizon can "avail itself" of is the ability to challenge a new UNE order, ***after*** it is filled, if Verizon believes the order is not valid. Even under the broadest reading of Verizon's rights under Section 2.2, Verizon can only implement changes to its obligations under the interconnection agreement consistent with and under the terms set forth in the *TRO* and *TRRO*, and, as noted, both decisions require Verizon to negotiate amendments to its interconnection agreements to do so.

Moreover, even if an argument could be made that the *TRO* or the *TRRO* "determined that BA is not required to furnish any service or item" such that Verizon could cease providing such service or item under Section 2.2 (which is not the case), it would limited only to Verizon's obligations to provide certain UNEs under Sections 251 and 252. As discussed, both the *TRO* and *TRRO* acknowledge that Verizon remains obligated to provide those UNEs under other applicable law. Nothing in Section 2.2 changes these independent unbundling requirements nor permits Verizon to ignore them. For these reasons, Section 2.2 only permits Verizon to "avail

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[12] *TRRO*, at ¶¶ 143, 196, 227.

[13] *TRRO*, ¶ 234.

itself" of its obligations under Sections 8.2 and 8.3 of the interconnection agreement to "negotiate promptly and in good faith in order to amend the Agreement to substitute contract provisions which conform to [the *TRO* and *TRRO*]."[14]

As to the RCN Telecom Services and RCN-BecoCom agreements, the only provisions applicable to this proceeding are Sections 8.2 and 8.3, which clearly require Verizon to negotiate an appropriate amendment to the interconnection agreement. By not seeking to withdraw RCN Telecom Service and RCN-BecoCom from this proceeding on the grounds that their interconnection agreements permit Verizon to implement changes of law unilaterally, Verizon acknowledged that it must comply with the requirements of Sections 8.2 and 8.3.

Focal Interconnection Agreement (Verizon's Group 4)

Verizon's arguments that the agreement permits it unilaterally to cease providing UNEs upon notice to Focal mischaracterizes and ignores critical provisions of the agreement. Verizon

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[14] Section 8.2. This section in its entirety states:

> In the event the FCC or the Department promulgates rules or regulations, or issues orders, or a court of competent jurisdiction issues orders, which make unlawful any provision of this Agreement, or which materially reduce or alter the services required by statute or regulations and embodied in this Agreement, then the Parties shall negotiate promptly and in good faith in order to amend the Agreement to substitute contract provisions which conform to such rules, regulations or orders. In the event the Parties cannot agree on an amendment within thirty (30) days after the date any such rules, regulations or orders become effective, then the Parties shall resolve their dispute under the applicable procedures set forth in Section 16 (Dispute Resolution Procedures) hereof.

Section 8.3 provides that:

> In the event that any legally effective legislative, regulatory, judicial or other legal action materially affects any material terms of this Agreement, or the ability of MCIm or BA to perform any material terms of this Agreement, MCIm or BA may, on thirty (30) days written notice (delivered not later than thirty (30) days following the date on which such action has become legally binding or has otherwise become legally effective) require that such terms be renegotiated, and the Parties shall renegotiate in good faith such mutually acceptable new terms as may be required.

claims that Section 8.4[15] of the agreement permits it to discontinue providing UNEs addressed by the *TRO* and the *TRRO* upon sixty days notice. Verizon ignores the fact that Section 8.4 states Verizon "may discontinue the provision of any service, facility, arrangement or benefit . . . ***to the extent permitted by any such decision***." As discussed above, the *TRO* and *TRRO* permit Verizon to discontinue the provision of UNEs in accordance with the change of law provisions of its interconnection agreements, *i.e.*, by negotiating an appropriate amendment to the agreement, not by fiat.

Moreover, to the extent Verizon is permitted to take any action under Section 8.4, it is only permitted to do so "to the extent permitted" by the *TRO* or the *TRRO*. As noted above, both the *TRO* and *TRRO* acknowledge that any changes to Verizon's obligations resulting from those decisions must be implemented by amendment of the parties' interconnection agreements[16] and Verizon remains obligated to provide UNEs under other applicable law. Section 8.4 does not permit Verizon to ignore these independent unbundling requirements.

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[15] Section 8.4 provides that:

> Notwithstanding anything herein to the contrary, in the event that as a result of any unstayed decision, order or determination of any judicial or regulatory authority with jurisdiction over the subject matter hereof, it is determined that a Party ("Providing Party") shall not be required to furnish any service, facility, arrangement or benefit required to be furnished or provided to the other Party ("Recipient Party") hereunder, then the Providing Party may discontinue the provision of any such service, facility, arrangement or benefit ("Discontinued Arrangement") to the extent permitted by any such decision, order or determination by providing sixty (60) days prior written notice to the Recipient Party, unless a different notice period or different conditions are specified in this Agreement (including, but not limited to, in an applicable Tariff [including, but not limited to, to the extent applicable, in VERIZON Tariffs DTE MA Nos. 10, 14, 15, 16 or 17, or F.C.C. No. 11] or Applicable Law) for termination of such Discontinued Arrangement, in which event such specific period and/or conditions shall apply. Immediately upon provision of such written notice to the Recipient Party, the Recipient Party shall be prohibited from ordering and the Providing Party shall have no obligation to provide new Discontinued Arrangements.

[16] *TRO*, at ¶¶ 700-701; *TRRO*, at ¶¶ 143, 196, 227.

Verizon's claims regarding the application of Section 1.7 of Part II: Unbundled Network Elements & Combination can also be rejected. That section permits Verizon to discontinue the provision of UNEs that it is not required by "Applicable Law" to continue providing. Once again, Verizon ignores the definition of "Applicable Law." Attachment 1: Definition Section 1 of the agreement defines "Applicable Law" as "***[a]ll*** laws, regulations and orders applicable to each Party's performance of its obligations [under the Agreement]." (emphasis added). As noted above, Verizon seeks to adopt a very narrow interpretation of this definition which in fact encompasses much more than the unbundling requirements of Sections 251 and 252, such as independent unbundling obligations imposed by state law, merger conditions, and Sectioin 271. Consequently, notwithstanding any potential changes to Verizon's obligations under Section 251 and 252, Verizon cannot cease providing UNEs completely, but must continue to provide them in accordance with the remaining unbundling obligations. At the same time, "the Parties must renegotiate in good faith [any] affected provisions with a view toward agreeing to acceptable new terms as may be required or permitted as a result of" the *TRO* and the *TRRO*, as required by Section 8.3 of the interconnection agreement.

B. DISPUTE RESOLUTION PROVISIONS

Verizon claims, erroneously, that none of the dispute resolution provisions in the inter-connection agreements preclude it from eliminating UNEs because those provisions are not relevant in the context of an arbitration. Verizon Response to March 1, 2005 Briefing Questions at 22-24; Verizon Response to March 10, 2005 Briefing Questions at 13-14. Verizon's entire argument is based upon its belief that it can unilaterally eliminate UNEs pursuant to other provisions of the interconnection agreements and, therefore, the dispute resolution provisions

never come into play. As demonstrated above, Verizon's arguments on this point are wrong and it must comply with the change of law provisions of the interconnection agreements.

The provisions Verizon relies upon to preclude dispute resolution actually favor application of the dispute resolution mechanisms in the agreements. As discussed above, the *TRO* and the *TRRO* are not self-effectuating. Rather, as the FCC recognized, any changes resulting from the *TRO* and *TRRO* would be implemented by the parties pursuant to the terms of their interconnection agreements.[17] In fact, as is evident from the parties' positions in this arbitration, the actual effect of the *TRO* and *TRRO* on Verizon's obligations, as well as the interpretation of change of law provisions, under the agreements is in dispute. Thus, as to each member of the CCC there is a "dispute between the Parties regarding the interpretation or enforcement of [the] Agreement or any of its terms" which "shall be addressed by good faith negotiations between the Parties."[18] This is the very type of dispute the parties contemplated would be addressed by dispute resolution provisions. Consequently, contrary to Verizon's claims, ignoring the dispute resolution provisions, which clearly apply, "would render any of those provisions illusory or meaningless" and would thus conflict with rules of contract construction.

Moreover, even if, as Verizon asserts, the more specific provisions of the interconnection agreements (*i.e.*, the change of law provisions) control over the more general provisions (the dispute resolution provisions), the result is not what Verizon proposes. To the extent the agreements specifically delineate the parties' rights regarding any change of law resulting from the *TRO* or the *TRRO*, the agreements require renegotiation of any affected provisions, not Verizon's

[17] *TRO*, at ¶¶ 700-701 (the FCC explicitly stated that carriers must follow their existing change of law provisions to implement the TRO, and "decline[d] the request of several BOCs that [the FCC] override the section 252 process and unilaterally change all interconnection agreements.").

[18] *See, e.g.*, DSLnet Interconnection Agreement, Section 14.1.

unilateral elimination of all unbundling obligations. Verizon grasps onto a very narrow, unreasonable interpretation of the terms of its interconnection agreements and ignores the plain meaning of those terms to force its will upon the CCC. Contrary to Verizon's claims, disagreement between the parties as to Verizon's unbundling obligations following issuance of the *TRO* and *TRRO* is a dispute arising under the agreement. Therefore, at a minimum, this dispute regarding Verizon's unbundling obligations requires compliance with the dispute resolution provisions of the agreements.

C. REPLY TO VERIZON MARCH 10, 2005 RESPONSE

Verizon's March 10 statement is inconsistent with the Act and the FCC's rules. As fully discussed in CCC's Brief (*see, i.e.,* Reply Brief, Introduction), Congress established the interconnection agreement process as a central component of the unbundling requirement and contemplated that ILECs, such as Verizon, and CLECs would negotiate appropriate agreements/amendments to implement those unbundling requirements. For these reasons, the Department cannot accept Verizon's invitation to ignore the clear terms of the parties' interconnection agreements, which set forth the required process for implementing the *TRO* and *TRRO*.

Issue 2:[19] Indicate whether a change of law or dispute resolution provision has been triggered and state the date on which each condition precedent or party obligations (e.g., notice requirements) was met, if applicable, with the regard to the implementation of (1) the Triennial Review Order, (2) USTA II, (3) the Interim Rules Order, (4) the Triennial Review Remand Order, or (5) any other statutory, judicial, or regulatory change, state or federal that you claim did modify the parties' rights under the interconnection agreement.

Verizon does not respond to the Department's question but merely repeats its mantra that the FCC transition plan is self-effectuating. As discussed in the CCC's initial response, only

[19] This is Issue 2 in the DTE's March 1, 2005 Procedural Notice and Briefing Questions. The DTE's March 10, 2005 Briefing Questions to Additional Parties contained a slightly different Issue 2, which is addressed in this response as well.

those portions of the *TRO* that were affirmed by the DC Circuit in *USTA II* (*i.e.*, service eligibility criteria for certain combinations, commingling and conversions) or were not appealed constitute a change of law for purposes of Verizon's Petition for Arbitration in this proceeding. Consequently, Verizon was required to provide the CCC members notice of its intent to negotiate an amendment to their interconnection agreements to implement these changes. The notices of discontinuance Verizon allegedly provided did not comply with these notice requirements.

The *TRRO* was not a change of law because Verizon remains subject to other unbundling requirements with respect to UNEs. Moreover, even if the *TRRO* can be considered to be a change of law, any such changes of law are entirely distinct from those made in the *TRO* and thus must be considered separately under the change-of-law provisions in the agreements. Verizon has not yet complied with such change-of-law provisions with respect to any *TRRO*-related change of law. For these reasons, members of the CCC, among others, responded to Verizon's notices and objected to Verizon's interpretation of the *TRRO*, as outlined herein; however, at the same time, and unlike Verizon, they expressed their willingness to negotiate the implementation of the *TRRO*.[20] Verizon has refused to do so.

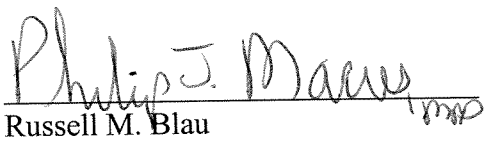
CONCLUSION

For the foregoing reasons, the CCC submits that Verizon must comply with the change of law and dispute resolution provisions of the parties' interconnection agreements to implement any changes resulting from the *TRO* and the *TRRO*. Verizon's attempt to circumvent its agreement to abide by these terms and unilaterally to cease providing UNEs in all circumstances

[20] *See, e.g.*, February 24, 2005 Letter from Counsel for RCN Telecom Services, Inc., *et al.* to Jeffrey Masoner, Verizon; February 25, 2005 Letter from Counsel for Alpheus Communications, L.P., *et al.* to Jeffrey Masoner, Verizon; March 4, 2005 Letter from Counsel for ACN Communications, Services, Inc., *et al.* to Jeffery Masoner, Verizon; March 21, 2005 Letter from Counsel for RCN Telecom Services, Inc., *et al*, to Jeffery Masoner, Verizon, and Srinivasan Soundararajan, Verizon. These responses by the CLEC Parties are attached as Attachment A.

regardless of its continuing unbundling obligations should be rejected.

Respectfully submitted,



Russell M. Blau
Robin F. Cohn
Paul B. Hudson
Philip J. Macres
Swidler Berlin LLP
3000 K Street, Suite 300
Washington, DC 20007
Tel: 202-424-7500
Fax: 202-424-7645
Email: rmblau@swidlaw.com
rfcohn@swidlaw.com
pbhudson@swidlaw.com
pjmacres@swidlaw.com

Counsel for CTC Communications Corp.; DSLnet Communications, LLC; Focal Communications Corporation of Massachusetts; Lightship Telecom, LLC, RCN-BecoCom LLC; and RCN Telecom Services of Massachusetts, Inc. (jointly, the "Competitive Carrier Coalition")

Dated: April 26, 2005

ATTACHMENT A

SWIDLER BERLIN LLP

The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Phone 202.424.7500
Fax 202.424.7647
www.swidlaw.com

February 24, 2005

VIA OVERNIGHT DELIVERY

Mr. Jeffrey Masoner
Vice President Interconnection Services Policy and Planning
Verizon Wholesale Markets
2107 Wilson Blvd., 11th Floor
Arlington, VA 22201

Re: Verizon FCC Triennial Review Remand Order February 10, 2005 Notice

Dear Mr. Masoner :

We are in receipt of your February 10, 2005 notice regarding Verizon's plans for implementing the FCC's recent *Triennial Review Remand Order* ("*TRRO*") and are responding on behalf of our client RCN Telecom Services, Inc.; RCN-BecoCom, LLC; and Starpower Communications, LLC.. ("RCN"). RCN agrees that it is necessary to follow the change of law provisions of their Interconnection Agreements with respect to implementing the *TRRO*, and will of course consider your proposed terms in good faith.

As an initial matter, we note that Verizon remains obligated to provide the UNEs affected by the *TRRO* pursuant to the FCC's Bell Atlantic/GTE Merger Conditions. While these conditions provide RCN with a basis to reject your proposed amendment, in recognition of the concerns stated in your notice, RCN is amenable to negotiating the terms of an amendment to the interconnection agreement at this time so that the Parties may implement the *TRRO* promptly in the event the merger conditions expire or are otherwise deemed inapplicable.

Further, we do not accept your assertion that Verizon may, beginning March 11, 2005, unilaterally deny RCN's orders for network elements that Verizon deems to be subject to the FCC's transition rules, before negotiating the terms of an amendment to implement that transition plan. Paragraph 234 of the *TRRO* unambiguously requires Verizon to provision *any* network element ordered by RCN if the order is accompanied by RCN's self-certification that, to the best of its knowledge, its request is consistent with the requirements of the FCC rules. Even to the extent that the *TRRO* could be considered self-effectuating, such effectuation would necessarily include the self-certification process. On behalf of RCN, we hereby provide **formal notice** that RCN will regard any denial of an order that complies with the FCC's self-

certification procedure as a breach of contract and the FCC merger conditions that will entitle RCN to monetary damages and other relief.

As a separate matter, even if Verizon could restrict RCN's access to network elements based upon a unilateral notice, your February 11, 2005 notice does not provide sufficient notice as to specific unbundled loops and transport elements. Both DS1 and DS3 loop and transport elements, as well as dark fiber transport, continue to be available as UNEs under the new rules unless and until it is determined that a particular wire center (or route between wire centers) falls within the classes as to which the FCC found a lack of impairment. Until Verizon provides us with sufficient information to support its identification as to which wire centers and routes fall into which category, and until we can resolve any disputes over classification of particular wire centers and/or routes, RCN has no way of determining whether a particular loop or transport UNE it wishes to order is "a Discontinued Facility" or not.

Thus, RCN stands ready and willing to negotiate in good faith, consistent with the Act and the FCC's requirements. However, Verizon's letter reflects a fundamental misunderstanding of the *TRRO's* default transition regime. Pursuant to the *TRRO,* RCN is obligated to *submit the necessary orders* to convert discontinued UNEs to other services. Whether those orders are provisioned and complete before the end of the transition period is an event within Verizon's control. Regardless, the precise terms of the transition period and process will be specified in the amendment required under Section 252 and the Agreements' change of law provisions. We look forward to receiving and reviewing any proposal Verizon may wish to offer concerning the terms of such an amendment.

As you know, the process of amending the Interconnection Agreement may continue beyond the March 11, 2005 effective date of the *TRRO.* Our understanding of the current Interconnection Agreements between RCN and Verizon is that the current terms of the Agreements continue to apply until an approved amendment takes effect. The *TRRO,* like the *Triennial Review Order,* is clear that Verizon may not unilaterally implement FCC regulations nor engage in self-help by categorically rejecting orders for UNEs that Verizon believes are no longer required under new FCC rules. In particular, the *TRRO* specifies that carriers will implement the FCC's new rules as directed by Section 252 of the Act.

We look forward to constructive discussions with Verizon regarding the terms of an amendment to incorporate the *TRRO.*

Sincerely,

Andrew D. Lipman
Russell M. Blau
Eric J. Branfman

SWIDLER BERLIN LLP

The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Phone 202.424.7500
Fax 202.424.7647
www.swidlaw.com

February 25, 2005

VIA OVERNIGHT DELIVERY

Jeffrey Masoner
Vice President Interconnection Services Policy and Planning
Verizon Wholesale Markets
2107 Wilson Blvd., 11th Floor
Arlington, VA 22201

Re: Verizon FCC Triennial Review Remand Order February 10, 2005 Notice

Dear Mr. Masoner:

We are in receipt of your February 10, 2005 notice regarding Verizon's plans for implementing the FCC's recent *Triennial Review Remand Order* ("*TRRO*") and are responding on behalf of our clients Alpheus Communications, L.P., ATX Communications, Inc, Citynet Pennsylvania, LLC, Citynet Ohio, LLC, Citynet Indiana, LLC, Citynet West Virginia, LLC. DSLnet Communications, LLC, FPL FiberNet, LLC, Mpower Communications, Corp., and TelCove Investment, LLC, TelCove of Pennsylvania, Inc., TelCove of Eastern Pennsylvania, TelCove of Jacksonville, Inc., TelCove Operations, Inc., TelCove of Vermont, Inc. and TelCove of Virginia, LLC ("CLECs"). Our clients agree that it is necessary to follow the change of law provisions of their Interconnection Agreements with respect to implementing the *TRRO*, and will of course consider your proposed terms in good faith.

As an initial matter, we note that Verizon remains obligated to provide the UNEs affected by the *TRRO* pursuant to the FCC's Bell Atlantic/GTE Merger Conditions. While these conditions provide CLECs with a basis to reject your proposed amendment, in recognition of the concerns stated in your notice, CLECs are amenable to negotiating the terms of an amendment to the interconnection agreement at this time so that the Parties may implement the *TRRO* promptly in the event the merger conditions expire or are otherwise deemed inapplicable.

Further, we do not accept your assertion that Verizon may, beginning March 11, unilaterally deny a CLEC's orders for network elements that Verizon deems to be subject to the FCC's transition rules, before negotiating the terms of an amendment to implement that transition plan. Paragraph 234 of the *TRRO* unambiguously requires Verizon to provision *any* network element ordered by a CLEC if the order is accompanied by that CLEC's self-certification that, to the best of its knowledge, its request is consistent with the requirements of the FCC rules. Even to the

extent that the *TRRO* could be considered self-effectuating, such effectuation would necessarily include the self-certification process. On behalf of the CLECs identified above, we hereby provide **formal notice** that it will regard any denial of an order that complies with the FCC's self-certification procedure as a breach of contract and the FCC merger conditions that will entitle a CLEC to monetary damages and other relief.

As a separate matter, even if Verizon could restrict a CLEC's access to network elements based upon a unilateral notice, your February 10, 2005 notice does not provide sufficient notice as to specific unbundled loops and transport elements. Both DS1 and DS3 loop and transport elements, as well as dark fiber transport, continue to be available as UNEs under the new rules unless and until it is determined that a particular wire center (or route between wire centers) falls within the classes as to which the FCC found a lack of impairment. Until Verizon provides us with sufficient information to support its identification as to which wire centers and routes fall into which category, and until we can resolve any disputes over classification of particular wire centers and/or routes, CLECs have no way of determining whether a particular loop or transport UNE it wishes to order is "a Discontinued Facility" or not.

Thus, CLECs stand ready and willing to negotiate in good faith, consistent with the Act and the FCC's requirements. However, Verizon's letter reflects a fundamental misunderstanding of the *TRRO's* default transition regime. Pursuant to the *TRRO,* CLECs are obligated to *submit the necessary orders* to convert discontinued UNEs to other services. Whether those orders are provisioned and complete before the end of the transition period is an event within Verizon's control. Regardless, the precise terms of the transition period and process will be specified in the amendment required under Section 252 and the Agreements' change of law provisions. We look forward to receiving and reviewing any proposal Verizon may wish to offer concerning the terms of such an amendment.

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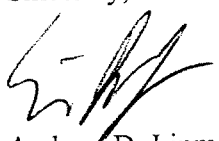
We look forward to constructive discussions with Verizon regarding the terms of an amendment to incorporate the *TRRO*.

Sincerely,



Andrew D. Lipman
Russell M. Blau
Eric J. Branfman

SWIDLER BERLIN LLP

The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Phone 202.424.7500
Fax 202.424.7647
www.swidlaw.com

March 4, 2005

VIA OVERNIGHT DELIVERY

Jeffrey Masoner
Vice President Interconnection Services Policy and Planning
Verizon Wholesale Markets
2107 Wilson Blvd., 11th Floor
Arlington, VA 22201

Re: Verizon FCC Triennial Review Remand Order February 10, 2005 Notice

Dear Mr. Masoner:

We are in receipt of your February 10, 2005 notice regarding Verizon's plans for implementing the FCC's recent *Triennial Review Remand Order* ("*TRRO*") and are responding on behalf of our clients ACN Communication Services, Inc.; Capital Telecommunications, Inc.; CTC Communications Corp.; Focal Communications Corp.; Gillette Global Network, Inc. d/b/a Eureka Networks; Lightship Telecom, LLC; and LightWave Communications, LLC ("CLECs"). Our clients agree that it is necessary to follow the change of law provisions of their Interconnection Agreements with respect to implementing the *TRRO*, and will of course consider your proposed terms in good faith.

As an initial matter, we note that Verizon remains obligated to provide the UNEs affected by the *TRRO* pursuant to the FCC's Bell Atlantic/GTE Merger Conditions. While these conditions provide CLECs with a basis to reject your proposed amendment, in recognition of the concerns stated in your notice, CLECs are amenable to negotiating the terms of an amendment to the interconnection agreement at this time so that the Parties may implement the *TRRO* promptly in the event the merger conditions expire or are otherwise deemed inapplicable.

Further, we do not accept your assertion that Verizon may, beginning March 11, unilaterally deny a CLEC's orders for network elements that Verizon deems to be subject to the FCC's transition rules, before negotiating the terms of an amendment to implement that transition plan. Paragraph 234 of the *TRRO* unambiguously requires Verizon to provision *any* network element ordered by a CLEC if the order is accompanied by that CLEC's self-certification that, to the best of its knowledge, its request is consistent with the requirements of the FCC rules. Even to the extent that the *TRRO* could be considered self-effectuating, such effectuation would necessarily include the self-certification process. On behalf of the CLECs identified above, we hereby

provide **formal notice** that it will regard any denial of an order that complies with the FCC's self-certification procedure as a breach of contract and the FCC merger conditions that will entitle a CLEC to monetary damages and other relief.

As a separate matter, even if Verizon could restrict a CLEC's access to network elements based upon a unilateral notice, your February 10, 2005 notice does not provide sufficient notice as to specific unbundled loops and transport elements. Both DS1 and DS3 loop and transport elements, as well as dark fiber transport, continue to be available as UNEs under the new rules unless and until it is determined that a particular wire center (or route between wire centers) falls within the classes as to which the FCC found a lack of impairment. Until Verizon provides us with sufficient information to support its identification as to which wire centers and routes fall into which category, and until we can resolve any disputes over classification of particular wire centers and/or routes, CLECs have no way of determining whether a particular loop or transport UNE it wishes to order is "a Discontinued Facility" or not.

Thus, CLECs stand ready and willing to negotiate in good faith, consistent with the Act and the FCC's requirements. In fact, some CLECs have already initiated the process with Verizon. However, Verizon's letter reflects a fundamental misunderstanding of the *TRRO's* default transition regime. Pursuant to the *TRRO,* CLECs are obligated to *submit the necessary orders* to convert discontinued UNEs to other services. Whether those orders are provisioned and complete before the end of the transition period is an event within Verizon's control. Regardless, the precise terms of the transition period and process will be specified in the amendment required under Section 252 and the Agreements' change of law provisions. We look forward to receiving and reviewing any proposal Verizon may wish to offer concerning the terms of such an amendment.

As you know, the process of amending the Interconnection Agreement may continue beyond the March 11, 2005 effective date of the *TRRO*. Our understanding of the current Interconnection Agreements between CLECs and Verizon is that the current terms of the Agreements continue to apply until an approved amendment takes effect. The *TRRO*, like the *Triennial Review Order*, is clear that Verizon may not unilaterally implement FCC regulations nor engage in self-help by categorically rejecting orders for UNEs that Verizon believes are no longer required under new FCC rules. In particular, the *TRRO* specifies that carriers will implement the FCC's new rules as directed by Section 252 of the Act.

We look forward to constructive discussions with Verizon regarding the terms of an amendment to incorporate the *TRRO*.

Sincerely,

Andrew D. Lipman
Russell M. Blau
Philip J. Macres

SWIDLER BERLIN LLP

The Washington Harbour
3000 K Street, N.W., Suite 300
Washington, D.C. 20007-5116
Phone 202.424.7500
Fax 202.424.7647
www.swidlaw.com

March 21, 2005

VIA OVERNIGHT DELIVERY

Mr. Jeffrey Masoner
Vice President - Interconnection Services Policy & Planning
Verizon Wholesale Markets
600 Hidden Ridge
P.O. Box 152092
Irving, TX 75038

Mr. Srinivasan Soundararajan
Assistant General Counsel
Verizon 1515 North Courthouse Road
Suite 500
Arlington, VA 22201

Re: Verizon's Letters Dated March 1 and March 18 to RCN

Dear Mr. Masoner and Mr. Soundarajan:

RCN Telecom Services, Inc.; RCN-BecoCom, LLC; Starpower Communications, LLC.; and its other affiliated entities ("RCN") respond to letters from Mr. Masoner dated March 1, 2005 and Mr. Soundarajan dated March 18 concerning the implementation of the TRRO.

As indicated in the RCN's letter dated February 24, 2005 to Mr. Masoner,[1] Verizon remains obligated to provide the UNEs affected by the *TRRO* pursuant to the FCC's Bell Atlantic/GTE Merger Conditions.[2] Although RCN understands that Verizon disagrees with RCN's interpretation of the relevant Merger Conditions, RCN and other CLECs have specifically requested the FCC to issue a declaratory ruling associated with Verizon's continuing

[1] Rather than repeating the entire contents of that letter, RCN incorporates its February 24 herein and will not fully repeat those responses here.

[2] *Application of GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, CC Docket 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14032, FCC 00-221, ¶ 316, Appendix D ¶ 39 (2000) ("*Bell Atlantic/GTE Merger Order*").

obligations in this regard and are raising this issue with the FCC's Enforcement Bureau.[3] Until such a decision is rendered and based on RCN's interpretation of the Merger Conditions, RCN is legally entitled to order any transport and loops routes on an unbundled basis until the terms of the relevant Merger Conditions have been satisfied, which has yet to occur.

Further, even if the Bell Atlantic/GTE Merger Conditions are found inapplicable, your letter overlooks Verizon's continuing obligation to offer loop and transport network elements pursuant to Section 271 and state law. Given this, your contentions that RCN must immediately comply with certain *TRRO* requirements before ordering UNE loops and transport from Verizon are unfounded.

Notwithstanding this, RCN recognizes its obligation to make a diligent inquiry before ordering UNEs, to the extent that the FCC rules become applicable. A diligent inquiry, may begin, but certainly does not end, with Verizon's unverified and unconfirmed list of wire centers where it claims that unbundled loops and transport are discontinued. In fact, due to these concerns, RCN and other CLECs recently requested the Massachusetts Department of Telecommunications and Energy to investigate the approach and assumptions Verizon used in deriving its list for Massachusetts wire centers, and RCN intends to do the same in other jurisdictions where it operates. Should it be determined that certain high-capacity loops and transport routes are no longer subject to unbundling based on the FCC's wire center tests, the FCC has already noted that such facilities "shall be subject to true-up to the applicable transition rate upon the amendment of the relevant interconnection agreements, including applicable change of law processes."[4]

RCN explained its February 24 letter that it is amenable to negotiating the terms of an amendment to the interconnection agreement at this time so that the Parties may implement the *TRRO* promptly in the event the relevant Merger Conditions expire or such conditions, along with Verizon's section 271 or state law obligations, are otherwise deemed inapplicable. In following through with those intentions, RCN recently proposed the attached contract language to Anthony Black at Verizon.[5]

Our understanding of the current Interconnection Agreements between RCN and Verizon is that the current terms of the Agreements continue to apply until an approved amendment takes effect. The *TRRO*, like the *Triennial Review Order*, is clear that Verizon may not unilaterally

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[3] *See Petition for Declaratory Ruling*, CC Docket Nos. 98-141, 98-184 (filed Sep.9, 2004).

[4] *TRRO*, n.408 & n.524.

[5] RCN reserves the right to revise, modify, or otherwise supplement this proposed contract language.

implement FCC regulations nor engage in self-help by categorically rejecting orders for UNEs that Verizon believes are no longer required under new FCC rules. In particular, the *TRRO* specifies that carriers will implement the FCC's new rules as directed by Section 252 of the Act.

In closing and although we may have different views about Verizon's legal obligations to offer UNE loops and transport at this time, RCN is anxious to move forward and conclude good faith negotiations needed to amend its Agreements as discussed above. We look forward to receiving Verizon's response to RCN's pending contract proposal.

Sincerely,

Russell M. Blau
Philip J. Macres

cc: Joseph J. Greenwood, Verizon
Joseph O. Kahl, RCN

AMENDMENT NO. __

to the

INTERCONNECTION AGREEMENT

between

[VERIZON LEGAL ENTITY]

and

[CLEC FULL NAME]

This Amendment No. [NUMBER] (the "Amendment") is made by and between Verizon [LEGAL ENTITY] ("Verizon"), a [STATE OF INCORPORATION] corporation with offices at [VERIZON STATE ADDRESS], and [FULL CLEC NAME], a [CORPORATION/PARTNERSHIP] with offices at [CLEC ADDRESS] ("CLEC"), and shall be deemed effective **[FOR CALIFORNIA]** upon Commission approval pursuant to Section 252 of the Act (the "Amendment Effective Date").**]** **[FOR ALL OTHER STATES:** on _____ (the "Amendment Effective Date").**]** Verizon and CLEC are hereinafter referred to collectively as the "Parties" and individually as a "Party." This Amendment covers services in Verizon's service territory in the [State or Commonwealth] of [STATE/COMMONWEALTH NAME OF AGREEMENT] (the "State"/"Commonwealth"). [THIS AMENDMENT DOES NOT APPLY IN PENNSYLVANIA]

WITNESSETH:

NOTE: DELETE THE FOLLOWING WHEREAS SECTION ONLY IF CLEC's AGREEMENT HAS USED AN ADOPTION LETTER:

[WHEREAS, Verizon and CLEC are Parties to an Interconnection Agreement under Sections 251 and 252 of the Communications Act of 1934, as amended [the "Act"] dated [INSERT DATE] (the " Agreement"); and**]**

NOTE: INSERT THE FOLLOWING WHEREAS SECTION ONLY IF CLEC's AGREEMENT USED AN ADOPTION LETTER:

[WHEREAS, pursuant to an adoption letter dated [INSERT DATE OF ACTUAL ADOPTION LETTER] (the "Adoption Letter"), CLEC adopted in the [State or Commonwealth] of [STATE/COMMONWEALTH NAME], the interconnection agreement between [NAME OF UNDERLYING CLEC AGREEMENT] and VERIZON (such Adoption Letter and underlying adopted interconnection agreement referred to herein collectively as the "Agreement"); and**]**

WHEREAS, the Federal Communications Commission (the "FCC") released an order on February 4, 2005 in WC Docket No 04-313 and CC Docket No. 01-338, (the "Triennial Review Remand Order" or "TRO Remand"), which became effective as of March 11, 2005;

WHEREAS, pursuant to Section 252(a)(1) of the **[NOTE: IF CLEC'S AGREEMENT IS AN ADOPTION, REPLACE "ACT" WITH: "the Communications Act of 1934, as amended, (the "Act")]** Act, the Parties wish to amend the Agreement in order to give contractual effect to the effective portions of the TRO Remand as set forth herein;

NOW, THEREFORE, in consideration of the promises and mutual agreements set forth herein, the Parties agree to amend the Agreement as follows:

1. The Parties agree that the Agreement should be amended by the addition of the terms and conditions set forth in the TRO Remand Attachment attached hereto. The term "Effective Date" as used in the TRO Remand Attachment shall mean the Amendment Effective Date as set forth in the recitals above.

2. Conflict between this Amendment and the Agreement. This Amendment shall be deemed to revise the terms and provisions of the Agreement only to the extent necessary to give effect to the terms and provisions of this Amendment. In the event of a conflict between the terms and provisions of this Amendment and the terms and provisions of this Amendment shall govern, *provided, however,* that the fact that a term or provision appears in this Amendment but not in the Agreement, or in the Agreement but not in this Amendment, shall not be interpreted as, or deemed grounds for finding, a conflict for purposes of this Section 2.

3. In the event that this Amendment is approved by the Commission simultaneously with an Amendment containing the Triennial Review Attachment to the Agreement, Section 2 shall be applied as if the Agreement had already been amended by the Triennial Review Attachment prior to the adoption of this Amendment.

4. Counterparts. This Amendment may be executed in one or more counterparts, each of which when so executed and delivered shall be an original and all of which together shall constitute one and the same instrument.

5. Captions. The Parties acknowledge that the captions in this Amendment have been inserted solely for convenience of reference and in no way define or limit the scope or substance of any term or provision of this Amendment.

6. Scope of Amendment. This Amendment shall amend, modify and revise the Agreement only to the extent set forth expressly in Section 1 of this Amendment. As used herein, the Agreement, as revised and supplemented by this Amendment, shall be referred to as the "Amended Agreement." Nothing in this Amendment shall be deemed to amend or extend the term of the Agreement, or to affect the right of a Party to exercise any right of termination it may have under the Agreement.

7. Reservation of Rights. Notwithstanding any contrary provision in the Agreement, this Amendment, or any Verizon tariff or SGAT, nothing contained in the Agreement, this Amendment, or any Verizon tariff or SGAT shall limit either Party's right to appeal, seek reconsideration of or otherwise seek to have stayed, modified, reversed or invalidated any order, rule, regulation, decision, ordinance or statute issued by the [***State Commission TXT***], the FCC, any court or any other governmental authority related to, concerning or that may affect either Party's obligations under the Agreement, this Amendment, any Verizon tariff or SGAT, or Applicable Law. Furthermore, to the extent any terms of this Amendment are imposed by arbitration, a party's act of incorporating those terms into the agreement should not be construed as a waiver of any objections to that language and each party reserves its right to later appeal, challenge, seek reconsideration of, and/or oppose such language.

8. **[IF NEGOTIATED]** Joint Work Product. This Amendment is a joint work product, and any ambiguities in this Amendment shall not be construed by operation of law against either Party.

SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties hereto have caused this Amendment to be executed as of the Amendment Effective Date.

CLEC Full Name TXT	VERIZON
By: _____	By: _____
Printed: _____	Printed: _____
Title: _____	Title: _____
[FOR CALIFORNIA and FLORIDA ADD:]	
Date: _____	Date: _____

TRO Remand Attachment

1. General Terms

1.1 Notwithstanding any other provision in the Agreement, Verizon's obligations to provide unbundled network elements ("UNE") pursuant to Section 251(c)(3) of the Act are amended as set forth below. Except where the provisions of this Attachment explicitly conflict with the terms of the Agreement, Verizon shall continue to provide access to UNEs in accordance with the terms of the Agreement. Nothing in this Attachment shall alter Verizon's obligations to provide access to network elements pursuant to any law or requirement other than Section 251 of the Act, and any omission of terms related to CLEC's rights pursuant to such obligations in this Attachment or the Agreement shall in no way be deemed or constitute a waiver of CLEC's rights accruing under such obligations.

1.2 The terms, conditions and rates specified in this Attachment shall not apply with respect to a particular UNE until the Merger Conditions adopted by the FCC in *GTE Corporation, Transferor, and Bell Atlantic Corporation, Transferee, for Consent to Transfer Control of Domestic and International Sections 214 and 310 Authorizations and Application to Transfer Control of a Submarine Cable Landing License*, CC Docket 98-184, Memorandum Opinion and Order, 15 FCC Rcd 14032, FCC 00-221, ¶ 316, App. D ¶ 39 (2000) ("*Bell Atlantic/GTE Merger Order*") expire pursuant to Section 1.2.1 below or are otherwise determined by the FCC to be inapplicable with respect to such UNE. Nor will terms, conditions and rates specified in this Attachment supersede any other state or federal merger conditions.

1.2.1 Verizon shall continue to make available to CLEC the UNEs and UNE combinations required in *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-238 (rel. Nov. 5, 1999) (UNE Remand Order) and *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order in CC Docket No. 98-147 and Fourth Report and Order in CC Docket No. 96-98 (rel. Dec. 9, 1999) (Line Sharing Order) in accordance with those Orders until the date of a final, non-appealable judicial decision providing that the UNE or combination of UNEs is not required to be provided by Verizon in the relevant geographic area. The provisions of this paragraph shall become null and void and impose no further obligation on Verizon after the effective date of final and non-appealable FCC orders in the UNE Remand and Line Sharing proceedings, respectively.

1.3 Nothing in this Attachment shall reduce the period of notice that Verizon must provide under the Agreement to discontinue its provisioning of a network element as a UNE. Notwithstanding anything in the Agreement or this Attachment, Verizon shall provide at least ninety (90) days' written notice of its intent to discontinue offering any UNE.

2. Definitions

2.1 Affiliate. The term "Affiliate" includes all entities that are affiliates as defined by 47 U.S.C. § 153(1) and also includes any entities that have entered into a binding agreement that, if consummated, will result in their becoming affiliates as so defined. The term "Verizon" includes all Affiliates of Verizon.

2.2 Business Line. A Business Line is a Verizon owned switched access line used to serve a business customer, whether by Verizon or by a competitive LEC that leases the line from Verizon. The number of business lines in a wire center shall equal the sum of all Verizon business switched access lines, plus the sum of all UNE loops connected to that wire center, including UNE loops provisioned in combination with other unbundled elements. Among these requirements, business line tallies (1) shall include only those access lines connecting end-user customers with Verizon end-offices for switched services, (2) shall not include non-switched special access lines, (3) shall account for ISDN and other digital access lines by counting each 64 kbps-equivalent as one line. For example, a DS1 line corresponds to 24 64 kbps-equivalents, and therefore to 24 "business lines."

2.3 Fiber-Based Collocator. A Fiber-Based Collocator is any carrier, unaffiliated with Verizon, that maintains a collocation arrangement in a Verizon wire center, with active electrical power supply, and operates a fiber-optic cable or comparable transmission facility that (1) terminates at its collocation arrangement within the wire center; (2) leaves the Verizon wire center premises; and (3) is owned by a party other than Verizon or any Affiliate of Verizon, except as set forth in this paragraph. Dark fiber obtained from Verizon on an indefeasible right of use basis shall be treated as non-Verizon fiber-optic cable to the extent it satisfies parts (1) and (2) of this definition and uses that dark fiber to provide lit capacity. Two or more Affiliated fiber-based collocators in a single wire center shall collectively be counted as a single Fiber-Based Collocator.

2.4 Interexchange Service. Interexchange Service is Telecommunications Service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service.

2.5 Mobile Wireless Service. A mobile wireless service is any mobile wireless Telecommunications Service, including any commercial mobile radio service.

2.6 Wire Center. A Wire Center is the location of a Verizon local switching facility containing one or more central offices. The wire center boundaries define the area in which all customers served by a given wire center are located. "Central office" is a switching unit, in a telephone system which provides service to the general public, having the necessary equipment and operations arrangements for terminating and interconnecting subscriber lines and trunks or trunks only. There may be more than one central office in a building.

3. **Eligibility.**

3.1 Verizon is not obligated to provide UNEs to CLEC for the exclusive provision of Mobile Wireless Service or Interexchange Services.

3.2 To the extent CLEC accesses or uses a UNE or Combination of UNEs in any manner not inconsistent with Section 3.1 of this Attachment, CLEC may also use that UNE or Combination of UNEs to provide any Telecommunications Service over the same UNE or Combination of UNEs, including but not limited to provision of Mobile Wireless Service, Interexchange Service or inputs for Mobile Wireless Service or Interexchange Service.

3.3 Verizon shall not deny CLEC access to a UNE or a combination of UNEs on the grounds that one or more of the elements:

3.3.1 Is connected to, attached to, linked to, or combined with, a facility or service obtained from Verizon; or

3.3.2 Shares part of Verizon's network with access services or inputs for mobile wireless services or Interexchange services.

4. Local Switching.

4.1 Local Switching. Except as provided in Sections 1.2.1 or 7.0 of this Attachment, Verizon is not required to provide Unbundled Local Switching.

5. Loops.

5.1 Dark Fiber Loops. Except as provided in Sections 1.2.1 or 7.0 of this Attachment, Verizon is not required to provide unbundled access to Dark Fiber Loops.

5.2 DS1 Loops.

5.2.1 Except as provided otherwise in this section, Verizon is obligated to provide CLEC with unbundled access to DS1 loops consistent with the terms of the Agreement.

5.2.2 Except as provided in Sections 1.2.1 or 7.0 of this Attachment, Verizon is not required to provide CLEC with access to UNE DS1 loops to any building served by a Wire Center listed in Schedule DS1 to this Attachment.

5.2.3 DS1 Loop Cap. Verizon is not obligated to provide CLEC with more than 10 DS1 Loops to any single building in which DS1 loops are available as UNEs under the Amended Agreement.

5.3 DS3 Loops.

5.3.1 Except as provided otherwise in this section, Verizon is obligated to provide CLEC with unbundled access to DS3 loops consistent with the terms of the Agreement.

5.3.2 Except as provided in Sections 1.2.1 or 7.0 of this Attachment, Verizon is not required to provide CLEC with access to UNE DS3 loops to any building served by a Wire Center listed in Schedule DS1 or Schedule DS3 to this Attachment.

5.3.3 DS3 Loop Cap. Verizon is not obligated to provide CLEC with more than one DS3 Loop to any single building in which DS3 loops are available as UNEs under the Amended Agreement.

6. Dedicated Transport

6.1 Except as provided otherwise in this section, Verizon is obligated to provide CLEC with unbundled access to Dedicated Transport consistent with the terms of the Agreement.

6.2 Definition: Dedicated Transport includes Verizon transmission facilities between wire centers or switches owned by Verizon, or between wire centers or switches owned by Verizon and switches owned by requesting telecommunications carriers, including, but

not limited to, DS1-, DS3-, and OCn-capacity level transmission facilities, as well as dark fiber, dedicated to a particular customer or carrier.

6.2.1 A Dedicated Transport Route is a transmission path between one of Verizon's wire centers or switches and another of Verizon's wire centers or switches. A route between two points (e.g., Verizon wire center or Verizon switch "A" and Verizon wire center or Verizon switch "Z") may pass through one or more intermediate Verizon wire centers or switches (e.g., wire center or switch "X"). Transmission paths between identical end points (e.g., Verizon wire center or switch "A" and Verizon wire center or switch "Z") are the same "route," irrespective of whether they pass through the same intermediate Verizon wire centers or switches, if any.

6.3 Entrance Facilities. Except for interconnection trunking as provided in Section 6.7 of this Attachment and as provided in Section 1.2.1 or Section 7.0 of this Attachment, Verizon is not obligated under Section 251(c)(3) of the Act to provide a requesting carrier with unbundled access to dedicated transport that does not connect a pair of Verizon wire centers.

6.3.1 Reverse Collocation. Verizon is obligated to provide unbundled dedicated transport between Verizon switches including switching equipment that is "reverse collocated" at a non Verizon premises, including but not limited to collocation hotels.

6.4 Dedicated Dark Fiber Transport.

6.4.1 Dedicated Dark Fiber Transport consists of unactivated optical Dedicated Transport transmission facilities.

6.4.2 Verizon shall provide CLEC with unbundled Dedicated Dark Fiber Transport between any pair of Verizon wire centers or switches except where both Wire Centers at the end points of the Dedicated Transport Route are either Tier 1 or Tier 2 Wire Centers, as identified on Schedules T-1 and T-2 to this Attachment. Verizon must provide unbundled access to Dedicated Dark Fiber Transport if either wire center on a requested route not listed on either of those Schedules.

6.5 Dedicated DS1 Transport.

6.5.1 Verizon shall provide CLEC with unbundled DS1 Dedicated Transport between any pair of Verizon wire centers or switches, except where both Wire Centers defining the Dedicated Transport Route are Tier 1 wire centers as identified on Schedule T-1 to this Attachment. Verizon must provide unbundled access to DS1 Dedicated Transport if either wire center on a requested route is not a Tier 1 Wire Center.

6.5.2 Dedicated DS1 Transport Cap. There is no limit on the number of DS1 transport circuits a CLEC may obtain on a particular Dedicated Transport Routes except that Verizon is not obligated to provide CLEC with more than 10 DS1 Dedicated Transport Circuits on any single Dedicated Transport Route in which DS1 Dedicated Transport is available but DS3 Dedicated Transport as defined in Section 6.6 is not available as a UNE. Notwithstanding the above, Dedicated Transport ordered in combination with a Loop (i.e., an Enhanced Extended Loop) shall not count toward this cap.

6.6 Dedicated DS3 Transport.

6.6.1 Verizon shall provide CLEC with unbundled Dedicated DS3 Transport between any pair of Verizon wire centers or switches, except where the Wire Centers at the end points of the Dedicated Transport Route are either Tier 1 or Tier 2 Wire Centers as identified on Schedules T-1 and T-2 to this Agreement. Verizon must provide unbundled access to Dedicated DS3 Transport if either wire center on a requested route is not identified on those schedules.

6.6.2 Dedicated DS3 Transport Cap. Verizon is not obligated to provide CLEC with more than 12 Dedicated DS3 Transport Circuits on any single Dedicated Transport Route in which Dedicated DS3 Transport is available as a UNE.

6.7 Availability of Verizon Dedicated Transport Transmission Facilities for Interconnection pursuant to Section 251(c)(2) of the Act. Nothing in this Attachment is intended to alter CLEC's right to obtain interconnection facilities pursuant to section 251(c)(2) for the transmission and routing of telephone exchange service and exchange access service as provided elsewhere in the Amended Agreement.

7. Transition

7.1 The following transition terms will apply when a specific UNE or UNE combination that Verizon provided to CLEC is no longer required to be unbundled at cost-based rates because the UNE (1) is no longer subject to Section 1.2.1 of this Attachment, (2) is not required under the terms of the Amended Agreement at such rates under state law or Section 271, and (3) has been designated for elimination (on the appropriate schedule, where applicable) in accordance with Sections 4, 5, 6, or 9.3 of this Attachment.

7.1.1 As used in this Section 7, the term "Transition Period" means (a) in the case of Network Elements other than Dark Fiber, the period from the Effective Date of this Attachment to March 10, 2006, and (b) in the case of Dark Fiber Network Elements, the period from the Effective Date of this Attachment to September 10, 2006; except as provided in Section 9.2.2 below.

7.1.2 As used in this Section 7, the term "Embedded Base" refers to CLEC's existing customers to whom CLEC provided service using one or more UNE arrangements that were in place as of the date that a UNE becomes subject to the terms of Section 7.1 of this Attachment.

7.1.3 Network Elements Used with Local Switching. To the extent Verizon provides Unbundled Local Switching under the provisions of this Section 7, Verizon shall also provide unbundled access to Call-Related Databases, SS7 Signaling and Shared Transport for UNE-P arrangements under the terms set forth in this Section 7.

7.2 Transitional UNEs Serving Existing CLEC Customers. During the Transition Period, Verizon shall continue to provide CLEC with access to UNEs solely for service to its Embedded Base as follows: [NOTE to Verizon: We propose that the parties establish rate tables to be attached to this amendment setting forth the rates using the formula below. In that event, the text of 7.2.1 and 7.2.2 below may not be necessary]

7.2.1 Verizon shall provide UNE Loops and UNE Dedicated Transport covered under this Section at a rate not to exceed the higher of:

7.2.1.1 115% of the rate CLEC paid for the UNE on June 15, 2004; or

7.2.1.2 115% of the rate [***State Commission TXT***] established between June 16, 2004 and March 11, 2005 for that UNE.

7.2.1.3 To the extent that a [***State Commission TXT***] order referenced in Section 7.2.1.2 raised some rates and lowered others for UNE DS1 Loops, DS3 Loops, Dark Fiber Loops, Dedicated DS1 Transport, Dedicated DS3 Transport, or Dedicated Dark Fiber Transport, Verizon must choose to apply either all or none of these rate changes and must notify CLEC within 10 days of the Effective Date of this Attachment which option Verizon selects.

7.2.2 Verizon shall provide unbundled switching under this Section according to the terms of Section 51.319 of the FCC rules, 47 C.F.R. § 51.319, as in effect of the Effective Date of this Attachment, at a rate not to exceed the higher of:

7.2.2.1 The rate CLEC was obligated to pay for unbundled switching on June 15, 2004 plus one (1) dollar; or

7.2.2.2 The rate [***State Commission TXT***] established between June 16, 2004 and March 11, 2005 for unbundled switching plus one (1) dollar.

7.2.2.3 To the extent that a [***State Commission TXT***] order referenced in Section 7.2.2.2 raised some rates and lowered others for the individual elements that comprise UNE-P (e.g. DS0 loop, unbundled switching or shared transport), Verizon must choose to apply either all or none of these UNE-P rate changes and must notify CLEC within 10 days of the Effective Date of this Attachment which option Verizon selects.

7.2.3 True-Up. Nothing in this Attachment is intended to alter any applicable provisions of the Agreement concerning the effective date of changes in rates, terms, and conditions resulting from a change of law. However, if the Amended Agreement does not otherwise specify the effective date of such changes, the transition rates contained in this Attachment shall be applied as of the Effective Date.

7.2.4 During the Transition Period, Verizon is obligated at CLEC's request to:

7.2.4.1 Provision additional UNEs to serve CLEC's Embedded Base;

7.2.4.2 Move existing UNE arrangements serving CLEC's Embedded Base from one address to another address; and

7.2.4.3 Add, remove or change features to serve an existing Embedded Base customer;

7.2.5 CLEC shall timely submit orders to migrate UNEs that are no longer available to alternative arrangements by the end of the Transition Period.

7.2.5.1 Verizon shall consider an order as timely if the date the order was submitted would allow Verizon to provision the UNE within the standard provisioning window applicable for that UNE.

7.2.5.2 To the extent Verizon does not provision the discontinued UNE by the last day of the Transition Period, Verizon must continue to provide the UNE under the terms of Section 7 until such time as Verizon completes the migration of the UNE to the alternate arrangement.

7.2.5.3 **[In former Bell Atlantic regions only:]** To the extent CLEC does not submit timely orders to migrate Discontinued UNEs to alternative arrangements, Verizon may, upon 30 days written notice to CLEC, migrate UNEs to arrangements provided under Section 271 under the terms provided in the Agreement.

[In former GTE regions only:] To the extent CLEC does not submit timely orders to migrate Discontinued UNEs to alternative arrangements, Verizon may, upon 30 days written notice to CLEC, migrate UNEs to similar arrangements provided under its FCC Access Tariffs and apply any term pricing or other discount plans to which CLEC has agreed.

8. Disputes Regarding Propriety of Network Element Requests

8.1 In submitting an order for any type of network element, CLEC certifies that it has undertaken a reasonably diligent inquiry to confirm that to the best of its knowledge its request is not inconsistent with the Amended Agreement. Submission of an order shall constitute such certification, and Verizon shall not require CLEC to provide additional certification.

8.2 If Verizon has not provided notice to CLEC of its belief that a request for a particular network element would be inconsistent with the Amended Agreement, CLEC is entitled to rely on the absence of such notice in satisfaction of its obligation to perform a reasonably diligent inquiry under the terms of Section 8.1. However, CLEC shall not be obligated to rely upon a notice given to it by Verizon if it believes after a reasonably diligent inquiry that it remains entitled to order the network element.

8.3 When Verizon disputes CLEC's right to obtain a UNE ordered in accordance with Section 8.1, Verizon must immediately process and fulfill the CLEC's request, and its sole remedy to seek discontinuance of its provisioning of such UNE is to invoke the dispute resolution procedures provided in the Amended Agreement within 30 days of the date on which CLEC submitted the order. Under no circumstances may Verizon reject or delay orders where CLEC has provided the certification pursuant to Section 8.1.

8.4 Notwithstanding any other provision of the Agreement, the provisions of this Section 8 shall apply in the event that a future change of law occurs such that a UNE provided for in the Amended Agreement is no longer required under Applicable Law. In such event, during the period while the Parties negotiate and/or arbitrate an amendment to reflect the changes in law, CLEC must certify its UNE requests and Verizon must continue to provide the applicable UNE until the Amended Agreement is amended.

9. Implementation.

9.1 The following schedules are attached to, and constitute part of, this Attachment:

9.1.1 Schedule DS1: Wire Centers in [STATE/COMMONWEALTH NAME] that serve at least 60,000 Business Lines *and* have four (4) or more Fiber-Based Collocators.

9.1.2 Schedule DS3: Wire Centers in [STATE/COMMONWEALTH NAME] that serve at least 38,000 Business Lines *and* have three (3) or more Fiber-Based Collocators.

9.1.3 Schedule T-1: Wire Centers in [STATE/COMMONWEALTH NAME] (also referred to as "Tier 1 Wire Centers") that serve 38,000 or more Business Lines *or* have four (4) or more Fiber-Based Collocators; and Verizon switching locations (for instance an access tandem switch) that have no line-side switching facilities, but serve as a point of traffic aggregation accessible by competitive LECs. Where an access tandem is located in the same building as line-side switching facilities, the Business Lines and Fiber Based Collocators are used to determine whether the switch is in a Tier One Wire Center.

9.1.4 Schedule T-2. Wire Centers in [STATE/COMMONWEALTH NAME] (also referred to as "Tier 2 Wire Centers") that serve 24,000 or more Business Lines in the Wire Center *or* have three (3) or more Fiber-Based Collocators.

9.1.5 Transition Rates Schedule. [to be developed by the parties prior to execution using the formulas currently set forth in 7.2.1 and 7.2.2 above]

9.2 If either Party determines that, as a result of changed circumstances after the Effective Date of this Attachment, a Wire Center that is not listed on one of the Schedules to this Attachment meets the criteria for being listed on such Schedule, that Party shall give written notice of its determination to the other Party. The Parties will then negotiate in good faith to amend the appropriate Schedule to include all qualifying Wire Centers. If the Parties are unable to agree on which Wire Centers qualify for inclusion on one or more Schedules, they shall comply with the process set forth in the Agreement regarding resolution of disputes relating to changes of law, as amended by Section 8.4 of this Attachment.

9.2.1 If the Party receiving a notice under this Section 9.2 so requests, the Party giving notice must make available for inspection all underlying data that supports its notice, including but not limited to its count of Business Lines broken down by each category of lines included in the definition; a list of the Fiber Based Collocators, including carrier names in each Wire Center; the methodology used to count Fiber Based Collocators; the methodology used to derive the Business Line count and the original source(s) of such data. The terms of the Amended Agreement regarding confidentiality shall apply.

9.2.2 The terms of Section 7 shall apply to any network element that ceases to be available to CLEC as a result of an amendment to a schedule, except that (a) the Transition Period for such network elements shall be 12 months from the effective date of such amendment to the relevant schedule for network elements other than Dark Fiber, and 18 months for Dark Fiber network elements from the effective date of such amendment to the relevant schedule; and (b) the transitional rate for such elements shall be 115 percent of the rate that was in effect on the day before the effective date of such amendment to the relevant Schedule.

[SCHEDULES DS1, DS3, T-1 and T-2

To be inserted after review of and agreement upon lists of wire centers in each category.]